

**APPROVED - MINUTES
LAKE GEORGE VILLAGE ZONING BOARD MEETING
SEPTEMBER 5, 2012- 7:00 PM
VILLAGE ADMINISTRATION BUILDING
26 OLD POST ROAD - LAKE GEORGE, NY**

BOARD MEMBERS PRESENT: Ron Mogren - Chairman, Dennis Barden, Kevin Merry, Tom Sullivan

BOARD MEMBERS ABSENT: Ginny Henry

OTHERS PRESENT: Doug Frost (Enforcement Officer), Carol Sullivan (Secretary), Mark Schachner (Attorney for the Zoning Board of Appeals), Public – see attached

Ron Mogren opened the ZBA meeting and the Public Hearing for Bob and Monica Proctor at 7:05 PM.

TAX MAP: 251.11-2-1.3

OWNER/APPLICANT: BOB & MONICA PROCTOR

ADDRESS: LOT 2 - LOCHLEA

ZONE: SINGLE FAMILY RESIDENTIAL

VARIANCE APPLICATION #: V09-2012

Owner/applicant is proposing construction of a single family residence with a detached two car garage. The setback requirement from the ordinary high level mark of the stream is 50 feet. Owner/applicant is seeking a variance for the garage and a variance for the single family residence. The proposed construction of the garage has the closest point at the northwest corner of the garage 38 feet from the ordinary high level mark of the stream; relief requested is 12 feet. The proposed construction for the northwest portion of the single family residence has the closest point of the home 42 feet from the ordinary high level mark of the stream; relief requested is 8 feet.

Attorney Michael O'Connor presented the Proctor's plans and request for the variance.

- Pointing to the map Mike indicated the two areas, one for the garage and one for the home where the variance is needed.
- Mike mentioned the variance area of square footage for the garage is 189 square feet; the house is 156 square feet.
- Mike mentioned that if the variance is granted the sidewalk and driveway grades will be acceptable and usable. Without the variance the grades are too steep.
- With a variance, stormwater will be maintained towards the front of the house, toward English Brook Road.
- Mike mentioned the home will be further north from English Brook Road and this is a benefit to the neighboring property; the neighboring property to the south will have a little more privacy.
- Mike pointed out that the Department of Environmental Protection has said that no permits are necessary. The DEC made this determination when the house in its original location was closer to the stream than the location that is presented tonight.
- The rear property line for this lot does not border on English Brook; there is a distance between the brook and the property line. English Brook is channelized with a rock wall. The lot actually slopes away from English Brook.
- All stormwater on the property will be captured on the property.
- To compensate for the requested variance the property owner has developed an extensive landscaping and planting plan.

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Bob Proctor went over the landscaping/planting plan with the Board members.

- Bob mentioned that they have used many resources to determine the best approach to maintaining the stream buffer. This particular lot has a very high ledge base and therefore, it is not as prone to high water erosion as a lot with a sandy base.
- At the recommendation of Cornell University, Cooperative Extension the stumps of trees taken down within stream buffer will be left in place. This will allow the root system to stay in place and hold the bank for several years.
- There are several trees that are 3 to 6 inches in diameter. These trees are good trees and are listed in the landscaping plans; these are healthy trees and will be retained. Once the canopy is opened up these trees will flourish and make a better stream buffer. Cornell University, Cooperative Extension believes these trees and the additional planned planting will make a better buffer than what is currently in place.

Mike continued with his discussion.

- From its original location, the house has been moved forward as much as possible and still has a useable sidewalk and driveway. This new location allows for 43 feet from the edge of the road to the front of the garage. There is a difference of 3 feet in elevation and this results in a 7 % grade on the driveway. Without the variance there would be a 10% grade for the driveway. For the house there is a walkway with steps - there is one step off of the porch and then 3 or 4 steps down to where the walkway begins; the first floor elevation is 340 feet. The grade is 10%. Without the variance the grade would increase and the walkway could not be used.
- The first floor of this house is 1,576 square feet. There is a bonus room upstairs (attic/bonus room) of 558 square feet. The finished lower level is 792 square feet. The porch is 270 square feet. The back deck is 350 square feet. The house footprint is 2,330 square feet.
- The grade doesn't allow for other alternatives.

At this point Ron asked for public comment.

Mike Sedlak (sp?) – Diamond Point – This is a public hearing and the public cannot hear the presentation. The renderings that are referred to cannot be seen by the public. The discussion and the renderings are a conversation between the applicant and the ZBA. Todd mentioned he objects to an applicant coming before the Board(s) and representing their project as being a family project to be kept within the family. The structures to be built were to be reminiscent and similar to the current cottages on the property. At the town level variances were granted to cluster undersize building lots – the Town Code excludes clusters in this particular zone. These homes are looking for additional variances because the homes are too big for the under sized lots. Projects like this contribute to the decline of the water quality of Lake George.

- Ron Mogren mentioned that a large share of the subdivision is on Town property and that may be how the Town dealt with the development on the Town's property. There is no clustering on the Village side. There are two new lots in the Village adding to the 1 or 2 other lots that are already developed. This discussion is just limited to Village property.

Mike Sedlak (sp?) – Diamond Point – The Town was the Lead Agency for the SEQRA. They went through the SEQRA process and the SEQRA criterion has not changed. The attributes discussed right now were not reviewed under SEQRA. How can the project move forward?

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Chris Navitsky – Lake George Waterkeeper – Chris presented a letter (attached) which he read to the Board and Public. LG Waterkeeper supports the decision of the enforcing the 50 foot setback/buffer. The SEQRA refers to the size of the homes as approximately 1,200 square feet. Chris believes there are alternatives available to the applicant – the original review was based on building sizes of 1,200 square feet. The current footprint is nearly twice the size of the subdivision plan. A smaller building would increase the stream setback. There are negative environmental impacts that can result from the reduction of the stream setback. The removal of the current vegetation will result in negative impacts. A better stream buffer cannot be constructed than what nature has already provided. The proposed building fails to comply with the approved subdivision plans and the basis for the negative SEQRA declaration.

Ron Mogren – The proposal has 4 rain gardens for a single family home. In looking at the proposal it appears that all the stormwater will be captured on site with no stormwater going into the stream. Ron indicated he doesn't see an environmental impact because of the installation of the rain gardens.

Chris Navitsky – Lake George Waterkeeper - A larger structure encroaches closer to the stream into the area that was deemed to be reserved as a stream buffer. As stream buffers are reduced there is an impact to the streams and deltas are created. During the planning process the review was conducted with smaller building sizes with the stream buffer in place and now with each home the stream buffer is being sacrificed.

Sam Greco – Lives in the neighboring property to the South, Scrimshaw Estates. In 2005 and 2006 English Brook overflowed. During the subdivision process Sam and some of the other residents in Scrimshaw expressed concern about English Brook overflowing again. Last year, because of hurricane Irene, English Brook overflowed again causing significant damage in the Scrimshaw Estates property. Now two structures will be placed in the path of the overflow – what's going to happen when it overflows again?

Bob Proctor – Bob mentioned he thinks stream buffers are not best if left alone. He added he believes that is one of the reasons why there have been some problems. When hurricane Irene went through the area a lot of dead trees that were in the stream buffer fell. The fallen trees created a damming process where smaller debris then accumulated and then the stream jumped its bank. If stream buffers are maintained and cleared of debris there is less chance for the stream to jump its banks.

Mike O'Connor – The material discussed tonight has been available for review at the Village Office; this is not new information. The proposed home is not large and the Village requirement is to not exceed 50% of the lot with impermeable surface. The current proposal is at 25% of impermeable surface. All the slopes on this property slope away from the brook; they slope towards the road. All of the stormwater will be captured in the rain gardens. Mike pointed out the stormwater plan is not subject to approval this evening by this board and he understands the Planning board will review that. This is not a substantial request.

? Adams – Ms. Adams mentioned they were the first to build at the Lochlea subdivision (Town of Lake George). Their house has just been completed; they have installed 5 rain gardens. There are homes to the north and south of Lochlea that are grandfathered, that have black-top driveways, fertilized gardens and septic systems. Ms. Adams mentioned that they have none of this at their home nor will

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the Proctors. She commented that the Village should recognize that the Proctors are trying to do everything possible to preserve the stream and the lake.

Ron Mogren – asked if there were any other comments. There were none. Ron mentioned he is favorable of any plan that captures all of the stormwater on the property and because of the stormwater plan he doesn't believe there is any impact on the stream corridor. The variance is not significant and the encroachment is mitigated by stormwater management plan.

Tom Sullivan – Tom reviewed the events leading up to the decision where the 50 foot setback was imposed. Based on what he has reviewed he does not see where the encroachment of 12 feet and 8 feet has a significant impact on the brook. He applauded the Proctors for the time and effort they have spent in soliciting opinions from the various agencies involved and Cornell University, Cooperative Extension in how to mitigate potential problems with English Brook. Tom commented that no one this evening has been able to demonstrate that the encroachment of 8 and 12 feet makes a difference with respect to the future course or health of English Brook.

Kevin Merry – Agrees with what Ron and Tom have said and indicated he does not have a problem with this variance request.

Dennis Barden – Does not agree with the board. A lot of time was spent in upholding the 50 foot setback. The Proctors knew when they left the last Zoning Board meeting there was a 50 foot setback. Dennis feels the hardship was created by the Proctors; the house could have been resized to fit the lot.

Ron Mogren asked Attorney Mark Schachner if he wanted to speak to the Board. Mark advised the Board, when making a decision on the variance, the motion should contain the relevant criteria – the 5 point criteria should be reviewed and mentioned as part of the motion.

MOTION: Ron Mogren made a motion to close the public hearing.

MOTION 2ND: Tom Sullivan

Ron Mogren	Dennis Barden	Ginny Henry	Kevin Merry	Tom Sullivan
Aye	Nay	Absent	Aye	Aye

Ayes = 4 Nays = 1. Motion carried.

MOTION: Ron Mogren made a motion to approve the variance as applied for. This motion is based on the following Fact Finding items:

1. The benefit to the applicant as weighed against the detriment to the health, safety and welfare of the neighborhood or community is greater because the stormwater management plan mitigates any detriment to the community and also English Brook and Lake George.
2. The variance will not have an undesirable effect on the character of the neighborhood because the variance is not significant; 8 feet for the house and 12 feet for the garage. The character of the neighborhood has not changed because of the variance.
3. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant because the applicant has explored some other alternatives. A lot of different scenarios have been looked at over the last few months; the design coupled with the stormwater management plan appears to be the best approach.

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4. The requested area variance is not substantial because the encroachment is only 8 feet for the house and 12 feet for the garage.
5. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood because the relief sought is minor.
6. The alleged difficulty was not self-created.

MOTION 2ND: Tom Sullivan

Ron Mogren	Dennis Barden	Ginny Henry	Kevin Merry	Tom Sullivan
Aye	Nay	Absent	Aye	Aye

Ayes = 3 Nays = 1 Motion carried.

OWNER/APPLICANT: KENNY & DITTRICH, LLC

TAX MAP: 251.14-2-3

ADDRESS: 365 CANADA ST

ZONE: COMMERCIAL MIXED USE

VARIANCE APPLICATION #: V06-2012

PUBLIC HEARING REMAINS OPEN

Owner/applicant is proposing construction of an 86 foot, 8 story major chain hotel. In the commercial mixed use zone the allowed height of commercial buildings is 40 feet. The allowed number of stories is 3. Owner/applicant is seeking relief of 46 feet for the building height and relief for 5 stories.

Attorney Jon Lapper represented Kenny & Dittrich LLC this evening. Jon commented that last month they came before this board making a request to construct an 8 story hotel. At that meeting the board members requested renderings of what the building would like if built in the proposed location. The renderings were submitted for review and discussion at tonight's meeting. Jon mentioned he is aware there are some people who are in favor of this project and some who are not. Both he and his client have determined the best approach would be to have the Village look at the Village zoning and determine whether or not this type of development qualifies for a rezoning. Perhaps the best method is to approach this through legislation in the Village. The Village board should be approached in making this determination - a determination should be made about the zoning and what type of development is feasible for the Village – is it 8 stories or something less. Jon asked the Zoning Board to table this application. He will discuss this idea with the Mayor.

Ron Mogren addressed the audience by summing up Jon Lapper's proposal this evening.

Dave Kenny addressed the audience mentioning the Village should decide what they would like as a part of rezoning or perhaps they will decide they do not want to change the zoning.

Ron commented that at this point he has not opened the public hearing. If the application is tabled then public comment should be directed to the Village Board of Trustees and any committee that will be looking into this issue of rezoning.

Joann Gavin – Lake George Citizen's Group - asked Ron if she could express a concern about forming a steering committee to look at this. Ron agreed to accept her comment. In 2005 there was a zoning steering committee and there was discussion at that time about rezoning and increasing the

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allowable height of buildings. At that time, not as a formal application but as discussion, Dave mentioned some things he would like to do at the Marine Village hotel which would involve a change in the zoning for the height requirements. At that time the zoning steering committee didn't make changes; the height maximum was left at 40 feet. 40 feet coincides with the APA recommendation. So the discussion of raising the height was looked at in 2005 and now in 2012 the question is being asked again. Raising the allowable height would change the character of the Village of Lake George; that is the biggest concern that the Lake George Citizen's Group has been hearing from the people in the community – they are not in favor of raising the allowable height. Many people are not happy with raising the allowable height and the impact it will have on the Village.

Tom asked Joann what action she was looking for the Board to take this evening and Mark interjected stating it was a good question because this Board can only take action for or against the applicant's request to table the application.

At this point the Board accepted the applicant's request and the application was tabled.

MOTION: Tom Sullivan made a motion to accept the August 1, 2012 minutes as presented.

MOTION 2ND: Kevin Merry

Ron Mogren	Dennis Barden	Ginny Henry	Kevin Merry	Tom Sullivan
Aye	Absent from August 1, 2012 meeting	Absent	Aye	Aye

Ayes = 3 Nays = 0. Motion carried.

MOTION: Tom Sullivan made a motion to adjourn the meeting at 8:27 PM.

MOTION 2ND: Dennis Barden

Ron Mogren	Dennis Barden	Ginny Henry	Kevin Merry	Tom Sullivan
Aye	Aye	Absent	Aye	Aye

Ayes = 4 Nays = 0. Motion carried.

Respectfully submitted,
Carol Sullivan
September 18, 2012